

PATENT COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 26 APR 2005

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| Applicant's or agent's file reference A/JP/106641WO | | FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416). | |
| International Application No. PCT/NZ2003/000265 | International Filing Date (day/month/year) 1 December 2003 | Priority Date (day/month/year) 24 December 2002 | |
| International Patent Classification (IPC) or national classification and IPC Int. Cl. ⁷ G06F 15/177, 13/00 | | | |
| Applicant YELLOWTUNA HOLDINGS LIMITED et al | | | |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of **5** sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheet(s).

3. This report contains indications relating to the following items:

- | | | |
|------|-------------------------------------|---|
| I | <input checked="" type="checkbox"/> | Basis of the report |
| II | <input type="checkbox"/> | Priority |
| III | <input type="checkbox"/> | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| IV | <input type="checkbox"/> | Lack of unity of invention |
| V | <input checked="" type="checkbox"/> | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| VI | <input type="checkbox"/> | Certain documents cited |
| VII | <input type="checkbox"/> | Certain defects in the international application |
| VIII | <input checked="" type="checkbox"/> | Certain observations on the international application |

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|--|---|
| Date of submission of the demand 23 July 2004 | Date of completion of the report 14 April 2005 |
| Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustralia.gov.au Facsimile No. (02) 6285 3929 | Authorized Officer EVAN SULCS Telephone No. (02) 6283 2442 |

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/NZ2003/000265

I. Basis of the report

1. With regard to the elements of the international application:
 - ☒ the international application as originally filed.
 - ☐ the description, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
 - ☐ the claims, pages , as originally filed,
pages , as amended (together with any statement) under Article 19,
pages , filed with the demand,
pages , received on with the letter of
 - ☐ the drawings, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
 - ☐ the sequence listing part of the description:
pages , as originally filed
pages , filed with the demand
pages , received on with the letter of
2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language which is:
 - ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
 - ☐ the language of publication of the international application (under Rule 48.3(b)).
 - ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).
3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:
 - ☐ contained in the international application in written form.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority in written form.
 - ☐ furnished subsequently to this Authority in computer readable form.
 - ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
 - ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished
4. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/fig.
5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|-------------------|-----|
| Novelty (N) | Claims 2-20 | YES |
| | Claims 1 | NO |
| Inventive step (IS) | Claims 3-6, 9-20 | YES |
| | Claims 1, 2, 7, 8 | NO |
| Industrial applicability (IA) | Claims 1-20 | YES |
| | Claims | NO |

2. Citations and explanations (Rule 70.7)

The following document has been identified in the International Search Report as the most relevant in relation to the claims 1-20 as shown below:

(D1) US 6 073 172 A (FRAILONG et al) 6 June 2000

NOVELTY (N) claim 1

The invention defined by claim 1 indicated above is not novel in light of D1 which explicitly discloses all of the features evident in this particular claim.

Hence D1 discloses a network device having operating software (column 7, lines 29-64) but no configuration data allowing it to carry out its intended purpose which network device is remotely programmable with configuration data as a whole but which network device or operating software has no facility to allow any incremental change of configuration data (column 1, line 57 – column 2, line 47; column 4, line 43 – column 6, line 20; column 12, line 5 – column 14, line 62)

INVENTIVE STEP (IS) claims 1-2, 7-8

Claim 1 as above.

The invention defined in dependent claims 2, 7 and 8 does not involve an inventive step when compared to prior art document D1. The cited art differs to claim 2 in that it does not indicate that the configuration data is lost when no network device supply voltage is present, while in relation to claims 7 and 8, the cited art fails to disclose the feature of the device being a router which is integral with a modem and the fact that the modem is an asymmetric digital subscriber line (ADSL) modem. The problem associated with these particular claims relates to the need to provide an internet connection which does not require on site attendance for configuration of a router or a firewall but which does provide complete security of configuration.

Hence if an ordinary person skilled in the art were faced with this particular problem given the disclosure provided in D1 (this document would be ascertained, understood and regarded as relevant), then it would be an obvious solution to implement the system outlined in D1, but with the features in these particular claims. Hence in regards to claim 2, the feature of the device configuration data being held in random access memory (RAM) is disclosed in D1, while the feature of the configuration data becoming lost when no network device supply voltage is present is obvious and is hence common general knowledge in the art. Therefore to implement the system in D1 with this particular feature would be a matter of routine for a person skilled in the art, thus indicating that claim 2 lacks an inventive step.

Continued in Supplemental Box.

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

- a) Claim 3 lacks clarity because I cannot find an antecedent to "the device software" (line 1) when the claim is appended to Claim 1.
- b) Claim 14 lacks clarity because I cannot find an antecedent to "the secure encryption" (line 1) when the claim is appended to Claim 11. It is suggested that it was intended for this claim to be appended to Claim 13.
- c) Claim 15 lacks clarity because I cannot find an antecedent to "the private key" (line 1) when the claim is appended to Claim 14.

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of Box V**INVENTIVE STEP (IS) claims 1-2, 7-8 continued**

Furthermore the feature of the device being a router which is integral with a modem and the modem being an asymmetric digital subscriber line (ADSL) modem does not constitute an inventive step, in the sense that a router could quite easily be substituted for a gateway interface device in the manner of being a network device which accepts configuration data from a remote server and not on the basis of the specific function of these two devices. The feature of the modem being an ADSL modem is also an obvious solution and is common general knowledge in the art, thus indicating that claim 8 also lacks an inventive step.